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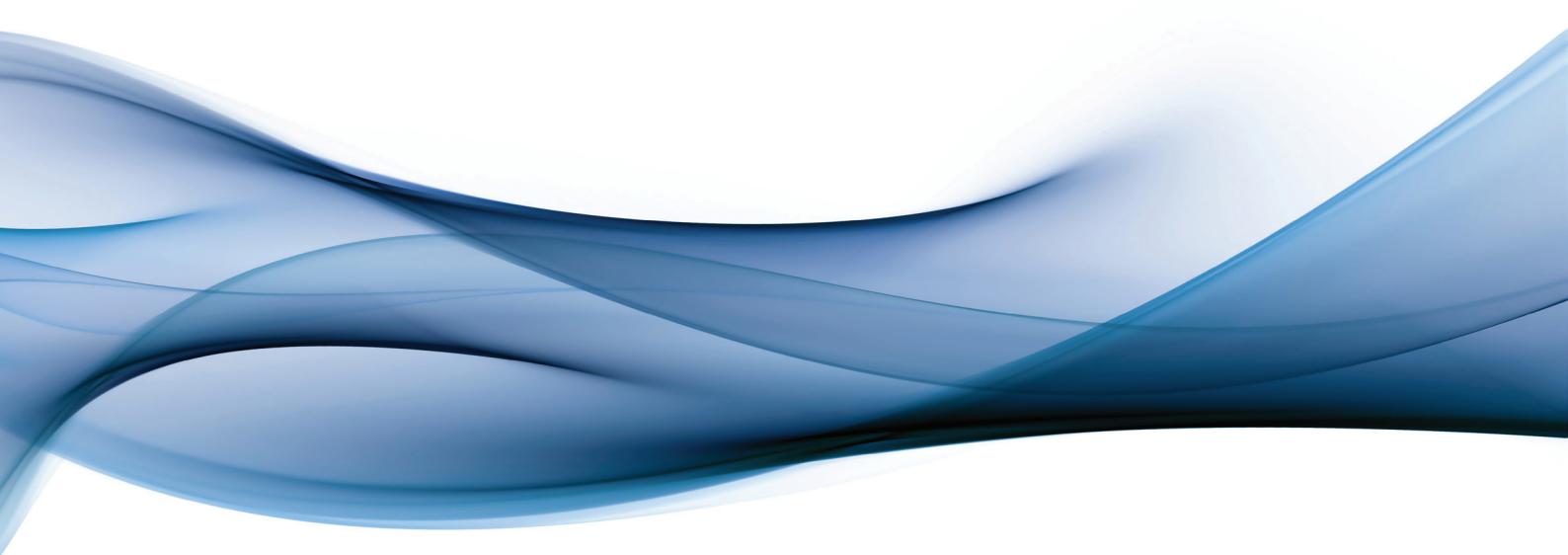
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UK design as a global industry: International trade and intellectual property Executive Summary

The Big Innovation Centre

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Executive summary

The importance of design to the UK economy is widely recognised. It is one of the key pillars of the knowledge economy, it plays an important role in the innovation process, and it is one of a number of specialisms that help to set the UK apart from global competition. But despite this importance, the nature of design-intensive industries – the businesses that practice and sell design – is remarkably hard to pin down. This uncertainty renders it hard to analyse, and makes it difficult to develop clear, consistent policies to support the designers. The Hargreaves Review recommended that more research was needed to develop a clear evidence base for improving the intellectual property system for design.

This report forms part of that evidence base. It examines how UK design figures in the global economy, and considers how the intellectual property system can best support its growth. The key findings of the report are set out below.

Design's international supply chain

Design-intensive industries are a diverse and nuanced sector. This report identifies six different industries in which design plays a major role, spanning both manufacturing and service sectors. Each of these different sub-sectors operates differently, and each derives value from design in its own way. The intellectual property system must reflect this diversity, and provide a framework for these differing parts of design-intensive industries to protect and make money from their intellectual property.

The six design-intensive sectors identified in this report are:

- **Design services** – a group of specialised design and technical activities, employing a high concentration of designers and trading on a business service basis;
 - **Architectural and engineering services** – a diverse group of services that provide design and technical support to a range of building and engineering projects;
 - **Computer and telecommunications services** – services that provide IT support to other companies, as well as those that provide telecommunications services to business and to consumers;
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- **Printing and publishing** – the physical printing and publishing of books, journals and other expressive material, spanning both manufacturing and services;
- **Fashion and craft** – a variety of manufacturing sectors producing low or medium-tech goods with a significant design element, such as wearing apparel, furniture, as well as designers working in arts services; and
- **Advanced manufacturing** – a group of technologically advanced manufacturing activities that use design as a significant input.

Design-intensive industries are highly export-facing. Most design-intensive sectors export a large share of their output, and contribute significantly more to UK exports than would be expected given their size. Around 35% of UK exports come from industries that employ higher-than-average concentrations of designers – when weighted according to the pay of core designers, design accounts for around 2% of UK exports. This share of exports is far higher than design's share of either employment or output, suggesting that design is extremely export-facing. In particular, specialised design services stands out as a highly export-intensive sector.

Design appears to play a leading rather than supporting role in international supply chains. Data on the interactions between design-intensive sectors and the rest of the economy suggest that a relatively small share of design outputs is sold to other export-intensive industries. The majority of service-based design activities are sold to other parts of the service sector, which have a relatively low propensity to export. There is little evidence to suggest that design services are sold to UK manufacturers, who then use them to export. Instead, the design-intensive sectors export a large share of its output directly. Our conclusion is that design plays a leading rather than a supporting role in UK trade, although there are limitations on the data available to measure these international interactions.

Design exports are predominantly sold to advanced economies, although emerging markets are growing in importance. As for the economy as a whole, the majority of design exports are sold to established UK trade partners in Europe and America. There is relatively little evidence of large scale exports to countries associated with low-cost manufacturing, such as those in East Asia. However, there are signs that exports to emerging markets, such as Russia, China and India, are beginning to grow. These emerging economies tend to have weaker intellectual property regimes than the UK's more established trading partners, and this will be an important consideration as the UK seeks to diversify its export markets.

Design and intellectual property

The intellectual property system is vital to design businesses, because they are based on generating valuable intellectual property. For designers to be able to generate value from and trade their work, they need an intellectual property system that is flexible, reliable and easy to use. This is especially challenging in a global context, but it is vital given the international nature of the UK design industry.

Design businesses use a range of different business models. There is no standard approach to selling design, and design firms capture value from their work in different ways. The three main ways of selling designs can be summarised as:

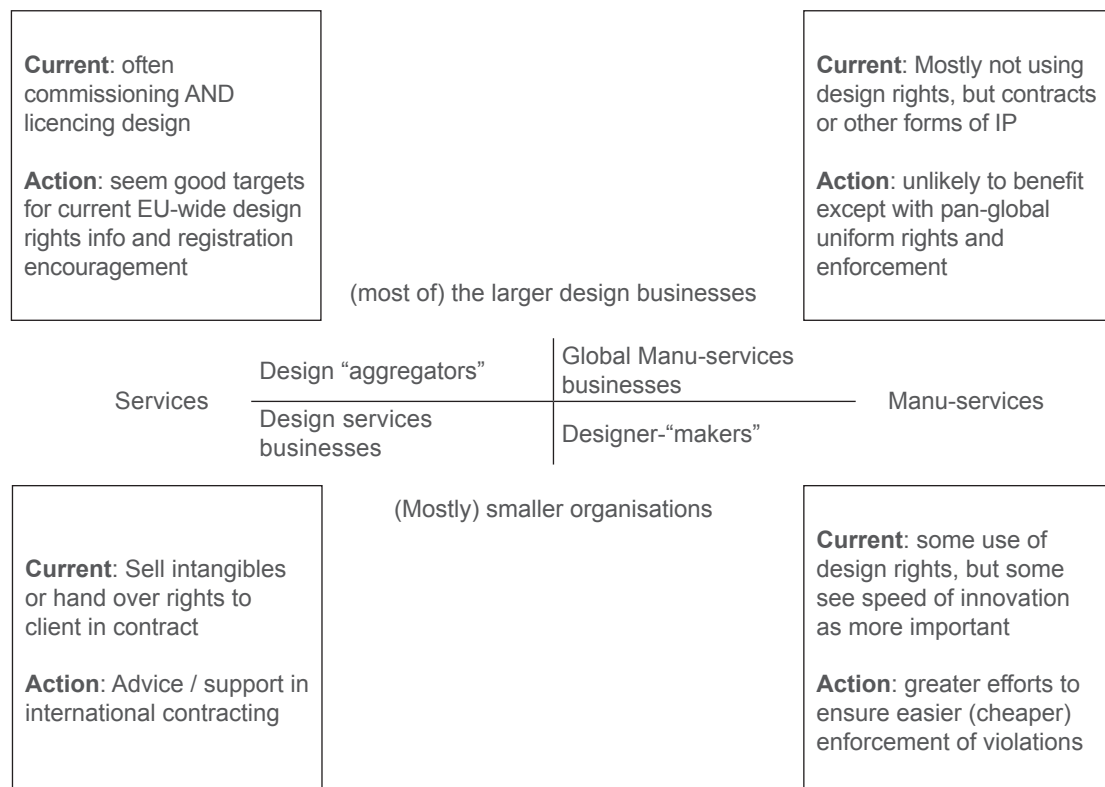
- **Selling products** – turning designs into finished products, and selling those to customers. A large share of the value of such design products is embodied in their intellectual property, and companies using such a model face risks of copying by other firms, especially in some overseas markets;
- **Licensing designs** – developing designs, and allowing other firms to use them under licence. This model involves capturing value directly from the intellectual property, but requires a clear and easy-to-enforce intellectual property system to make it viable;
- **Design as a service** – many design companies offer design as a bespoke service, rather than a codifiable design. The bespoke nature of design services puts them at a lesser risk of copying, but such companies still rely heavily on the intellectual property system to provide a basis for commercial relationships.

These business models are not mutually exclusive, and many companies use all three within their operations. Each of these models requires a different type of support from the intellectual property system, since they involve trading design through different mechanisms.

Design businesses use many parts of the intellectual property system, not just design rights. Evidence from the case studies shows that design businesses use a wide range of intellectual property protection to support their business models. Registered design rights are one such mechanism, but unregistered design rights, copyright, trademarks and patents are also used by design businesses to protect and derive value from their design assets. Some companies deliberately eschew intellectual property, preferring to rely on the pace of their innovation and difficulty of copying products to keep ahead of competitors. The most appropriate form of intellectual property mechanism is context-specific, and depends on the business model used. Policy makers must consider how design relates to the whole intellectual property system, and avoid focusing exclusively on registered design rights.

The design-intensive industries sector has a large share of small businesses, which need support in using and enforcing intellectual property rights. Developing service contracts, licensing designs and protecting design goods is a complex task for any business, and it is even harder to do in international markets. Small businesses often have limited resources to enforce their legal rights, and this may prevent them from exporting. It may also be hard for smaller businesses to select the right type of intellectual property protection, given the diversity of options available.

The lack of international harmonisation of intellectual property regimes hampers some international trade by design firms. There is some evidence from the case studies that firms operating particular business models are constrained by different intellectual property regimes in different parts of the world. While some firms may be able to find a way around such problems (such as using EU-wide design rights to protect against copied imports), this may hold back international trade in design.



From these categories we can derive four recommendations for the Intellectual Property Office, and the broader UK government.

Focus for *global manu-services organisations*:

1. International harmonisation: There may be value in focusing on the creation of a global system for the registration and protection of designs.

This research has provided some evidence to suggest that there would be benefits to extending the global reach of the design rights registration system. Having a design rights system that is legally enforceable in more countries would make it easier for a variety of design companies to do business, even though relatively few design firms would use the right directly. There is also some evidence that the EU-wide OHIM design registration system offers benefits over the UK-based system. There is little evidence that strengthening the UK design rights system would provide significant benefits to international design businesses.

Of course, there are many obstacles to extending the global reach of design rights, and this is not something that the IPO alone can take forward. However, there is a stronger case for putting effort into extending the international reach of existing design rights than for extending the scope of design rights within the UK. This recommendation also implies a long-term strategy – but this is appropriate as the level of competition from competitor nations in aspects like design aggregation and services is likely to intensify over a 10-15 year timeframe. First steps might be greater engagement with international efforts to harmonise the measurement of design industries and activities.

Focus for *smaller design services organisations*:

2. Providing clearer guidance to Small and Medium Enterprises (SMEs) on the range of intellectual property protection methods available.

The range of intellectual property protection used by design firms may make it hard for SMEs to assess which approach to managing their designs is most appropriate. The IPO could provide further guidance to SMEs, explaining the full range of different options that can be used by designers, rather than focusing solely on registered design rights.

The alternative options highlighted should include unregistered design rights, copyrights, trademarks and patents. As well as listing out the different options, it would be helpful to provide guidance on different strategies for using these rights (such as using copyright to protect technical reports).

Focus for *smaller designer-makers*:

3. Making enforcement of unregistered designs and contract agreement easier for small companies.

As well as providing clearer guidance to small businesses, there is also a case for expanding support for small, internationally-facing design businesses in writing contracts and enforcing intellectual property. There is a case for the IPO to work with UK Trade and Investment and other relevant bodies to provide better export support to small design firms.

This support might include access to legal support or advice on how to agree contracts with international clients. It may also involve improving the enforcement of unregistered design rights for small design businesses.

Focus for *design-aggregators*:

4. Focusing efforts to encourage design rights registration at UK and EU levels at those licensing organisations / design aggregators whose business models are most reliant on direct design IP – and most likely to need to enforce design rights in their main EU markets.

Existing efforts by the IPO to inform design businesses regarding design rights and other IP protections could be focused on design aggregating businesses. This might result in these organisations deploying other kinds of protection, for example patents, but the focus would be driven by the centrality of licensing and commissioning to the organisation's business model. As the case studies make clear, the majority of enforcement problems for what are often high-value items are not directly in international supply chains, but in enforcing design rights in other 'home' markets like the EU. Support for these organisations might include alternative design deposit systems such as those provided by ACID or others.



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